

**NOTICE OF REMEDIATION OR RELATED ACTION TAKEN PURSUANT TO THE
FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION**

AND LIABILITY ACT and

CREATION OF EASEMENT

LEGAL BASIS FOR NOTICE AND BACKGROUND: The Oklahoma Department of Environmental Quality (“DEQ”) hereby files this NOTICE OF REMEDIATION OR RELATED ACTION TAKEN PURSUANT TO THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT AND CREATION OF EASEMENT (hereinafter “Notice”) pursuant to Oklahoma Statutes, 27A O.S. § 2-7-123 (B). This Notice does not grant any right to any person not already allowed by law. This Notice shall not be construed to authorize or encourage any person or other legal entity to cause or increase pollution, to avoid compliance with State or Federal laws and regulations regarding pollution or to in any manner escape responsibility for maintaining environmentally sound operations.

This Notice is further required as an “institutional control” in the U.S. Environmental Protection Agency’s (“EPA”) *Record of Decision, Tar Creek OU4 Superfund Site*, dated February 2008. Institutional controls are generally required to ensure that only appropriate land reuse options are implemented and to notify current and potential future deed holders of the presence of engineering controls and/or restrictions for the Affected Property.

Additionally, this Notice fulfills the requirement in 27A O.S. § 2203(A) for placing a restriction running with the land on the deeds to all properties obtained pursuant to 27A O.S. § 2203(A) (3), providing that such properties may not be occupied by children six (6) years of age and younger until the State Commissioner of Health formally determines that the area is safe for children of such an age

In 2004, the Oklahoma Legislature enacted the *Lead-Impacted Communities Relocation Act*, originally codified at 10 O.S. § 7602 et seq. and later re-codified with amendments at 27A O.S. §§ 2201 – 2206 and renamed as the *Lead-Impacted Communities Relocation Assistance Act* (Act). The Act recognizes the environmental degradation, public health threats and subsidence risks that exist in the historic lead and zinc mining areas of the state, which caused EPA to place certain of these areas on its Superfund National Priorities List (NPL). These areas are collectively referred to as the Tar Creek Superfund Site (Site). The Affected Property identified below is within this Site.

The Act authorizes certain grant monies to be used to provide voluntary relocation assistance to eligible individuals, families and other entities, provided the recipients agree that they will not again reside within the most affected areas of the Site for lead contamination until the State Commissioner of Health formally determines that the area is safe for children age six (6) and younger and/or in any area of greatest subsidence risk until the Office of the Secretary of Environment determines that the area is safe for habitation. The “Lead-Impacted Communities

Relocation Assistance Trust” (“LICRAT” or “Trust”) was established pursuant to the Act in order to administer the voluntary relocation effort.

Prior to the creation of the Trust, the Ottawa Reclamation Authority (“Authority”) operated in the Tar Creek area, acquiring and reclaiming properties affected by historical mining operations. In 2006, the Authority was terminated and its records and assets, including real property, were transferred under 27A O.S. (2006) § 2207 to the Trust to be managed and disposed along with all other Trust-owned properties.

REASON FOR NOTICE: The Affected Property described herein below is one of the properties for which relocation assistance was provided by the Trust. This Notice is intended to enhance the protectiveness sought through the voluntary relocation effort.

EASEMENT: The owner of the Affected Property described below has the legal authority to create, and does hereby voluntarily create, an easement granted to the DEQ and its employees and agents, for ingress and egress through, across and onto the Affected Property to assure the ongoing protection of the remedy, engineering controls and land use restrictions described herein below. This easement touches and concerns the land; runs with the land; is legally binding on all future owners of the Affected Property and will only be removed or modified if and when the DEQ modifies or removes its land use restrictions or engineering controls in the manner described herein below, or the State Commissioner of Health determines that the Affected Property is safe for children six (6) years of age and younger or the Oklahoma Secretary of Environment determines that the Affected Property is safe for habitation or occupation pursuant to applicable law.

AFFECTED PROPERTY: [description, including buildings, etc., legal description etc]

VOLUNTARY RELOCATION: Voluntary relocation was achieved for the Affected Property identified in this Notice. Generally, voluntary relocation is intended to remove a limited populace from areas of subsidence risk and areas with concentrated sources of potential exposure to lead contamination, such as the Affected Property. Ultimately, risk will remain as will the exposure pathway for anyone who visits such an area. Members of the community who elected not to participate in the voluntary relocation remain in the area near sources of lead contamination and subsidence risk.

ENGINEERING CONTROLS: None.

CONTINUING OPERATION, MAINTENANCE AND MONITORING: The DEQ has authority under 27A O.S. § 2-7-123(D) to take administrative or civil action against any person who damages or interferes with any remediation, engineering controls or continuing operation, maintenance or monitoring of the site, or who increases the amount or extent of contamination or who uses the Affected Property in a manner inconsistent with the Land Use Restrictions identified herein below.

Additionally, restrictions on reoccupation or re-establishment on the Affected Property in 27A O.S. § 2203(A) or (B) may be enforced by the Trust in its own name or by the district attorney or the Attorney General in the name of the State of Oklahoma. (See 27A O.S. § 2204.)

[Use either or both of the following two paragraphs, depending upon the circumstances.]

LAND USE RESTRICTIONS PROHIBITING OCCUPATION BY CHILDREN SIX YEARS OF AGE AND YOUNGER: The Trust obtained the Affected Property pursuant to paragraph 3 of Subsection A of 27A O.S. § 2203; accordingly, pursuant to subsection A paragraph 6 of 27A O.S. § 2203, the Affected Property may not be occupied by any children six (6) years of age and younger until the State Commissioner of Health formally determines that the area is safe for children of such an age. This land use restriction runs with the land.

LAND USE RESTRICTION PROHIBITIONG OCCUPATION BY RECIPIENTS OF RELOCATION ASSISTANCE: The DEQ has determined that the Affected Property is in an area of subsidence risk obtained by the Trust pursuant to 27A O.S. § 2203(B); accordingly, pursuant to 27A O.S. § 2203(B), the Affected Property may not be occupied by recipients of relocation assistance until the Office of the Secretary of the Environment determines that the area is safe for habitation or occupation. This land use restriction runs with the land.

GENERALLY-APPLICABLE LAND USE RESTRICTIONS: The Affected Property shall not be used for any:

- (1) Commercial or industrial use, excluding chat sales, commercial or industrial uses relating to chat sales, and commercial or industrial uses relating to or involving site remediation;
- (2) Educational use, excluding education, research, scientific and similar uses that do not involve habitation or continuous occupation over an extended period of time;
- (3) Residential use;
- (4) Drilling, except in accordance with Oklahoma Water Resources Board Rules at Oklahoma Administrative Code (OAC) Title 785 Chapter 45 (Oklahoma Water Quality Standards), Appendix H (Beneficial Use Designations for Certain Limited Areas of Groundwater); or
- (5) Any other purpose that involves the continuous occupancy of private or public buildings located on the Affected Property, if any.

CHANGING LAND USE RESTRICTIONS: Changes to land use restrictions must be approved as stated above by either the State Commissioner of Health, the Secretary of the Environment or by the DEQ pursuant to applicable law.

This Notice of Remediation and the restrictions and requirements contained herein run with the land and no change of ownership of the Affected Property will change the Land Use Restrictions. This Notice of Remediation and the restrictions and requirements are effective upon the date of signature by the Executive Director of the DEQ.

Steven A. Thompson, Executive Director
Oklahoma Department of Environmental Quality

Date

Subscribed and sworn to before me this _____ day of _____, 2013.

Notary Public

My Commission expires:

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I hereby certify that I have the legal right to, and do hereby, create an easement and encumber the real property as described in the foregoing Notice of Remediation. I hereby voluntarily grant an easement to the DEQ and its employees and agents, for ingress and egress through, across and onto the Affected Property to assure the ongoing placement, operation and protection of the remedy, engineering controls and land use restrictions described herein above.

I have had notice and an opportunity to meet with representatives of the Oklahoma Department of Environmental Quality to comment on the foregoing Notice of Remediation and agree herewith. I hereby agree to the filing of the foregoing Notice of Remediation and Easement.

Mark Osborn, Chairman
Lead-Impacted Communities Relocation Assistance Trust
Owner of the Affected Property

Date

LICRAT Secretary (?)

Date

Subscribed and sworn to before me this _____ day of _____, 2013

Notary Public

My Commission expires:
